

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte DAVID OLSEN

Appeal No. 2005-1630
Application No. 10/665,752

ON BRIEF

Before JERRY SMITH; CRAWFORD, and LEVY, Administrative Patent Judges.
CRAWFORD, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 to 3, and 5 to 38, which are all of the claims pending in this application. Claim 4 has been canceled.

BACKGROUND

The appellant's invention relates to ink containers for providing ink to ink jet printers (specification, p. 1). A copy of the claims under appeal is set forth in the appendix to the appellant's brief.

The prior art references

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Dietl et al. (Dietl)	5,971,531	Oct. 26, 1999
Soga et al. (Soga)	6,082,852	July. 4, 2000
Ma et al. (Ma)	5,085,698	Feb. 4, 1992

The rejections

Claims 1 to 3, 5, 7 to 18 and 20 to 36 and 38 stand rejected under 35 U.S.C. § 103 as being unpatentable over Soga in view of Ma.

Claims 6, 19 and 37 stand rejected under 35 U.S.C. § 103 as being unpatentable over Soga in view of Ma as applied to claims 1 to 3, 5, 7 to 18 and 20 to 36 and 38 and further in view of Dietl.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellant regarding the above-noted rejections, we make reference to the answer (mailed November 15, 2004) for the examiner's complete reasoning in support of the

rejections, and to the brief (filed September 13, 2004) and reply brief (filed January 12, 2005) for the appellant's arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellant's specification and claims, to the applied prior art references, and to the respective positions articulated by the appellant and the examiner. As a consequence of our review, we make the determinations which follow.

We turn first the examiner's rejection of claims 1 to 3, 5, 7 to 18, 20 to 36 and 38 under 35 U.S.C. § 103 as being unpatentable over Soga in view of Ma. The examiner finds that Soga describes the elements of claim 1 except that Soga does not describe a supply of pigmented liquid ink disposed in the containment vessel. The examiner relies on Ma for teaching that the use of pigmented ink for ink jet printers and that the use of pigmented ink provides images which have good print quality, and water and smear resistance. The examiner concludes:

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to use the pigmented ink as taught by Ma et al as an ink supply in reservoir of Soga et al for the purposes of producing printing images having good print quality, water and smear resistance, lightfastness, and storage stability. [answer at page 4].

Appellants argue that there is no teaching in the cited prior art of a screen having a "pore size small enough to prevent air passage at operational pressures and large enough to allow said dispersed colorant particles to pass therethrough" as required by claim 1.

It is true that the prior art does not explicitly describe a screen having a pore size that prevents the passage of air, but allow the dispersed colorant particles to pass there through. Soga does describe that the screen has perforations which have a diameter that is determined by the characteristics of the ink used, and prevents air from entering the ink tank (col. 8, lines 32 to 41). It is our view that a person of ordinary skill in the art would have been motivated to use pigmented ink in the ink jet printer of Soga to obtain good print quality and would have known that the perforations would have to be large enough for the colorant in the pigmented ink to pass. If the diameter of the perforations were not large enough for the colorant of the pigmented ink to pass the ink jet cartridge would not be useful for printing.

Appellants also argue that Soga does not discuss pigmented ink or the problems associated with pigmented ink and thus one would not be motivated to use pigmented ink in the device of Soga. This argument is not persuasive because Ma describes the use of the pigmented ink in ink jet printers and Soga discloses changing the diameter of the perforations in the screen to match the type of ink used and this teaching as we discussed above, would have motivated a person of ordinary skill in the art to utilize a

screen whose perforations allow the passage of the colorant particles in a pigmented ink.

In view of the foregoing, we will sustain this rejection as it is directed to claim 1. We will also sustain the rejection as it is directed to claims 2, 3 and 5 to 7 as these claims stand or fall with claim 1 (brief at page 8).

In regard to claim 8, the appellants argue that neither Soga nor Ma describes the step of "bringing the interconnect outlet port and the screen into contact with the fluid interconnect inlet port," as recited in claim 8.

The examiner argues that Figs. 3 and 4 of Soga depict that the screen (5a) and interconnect outlet port (6a) are necessarily brought in contact with the fluid interconnect inlet port (14a).

We agree with the appellant that Figs. 3 and 4 of Soga depict that the screen (5a) is not brought in contact with the interconnect outlet port (6a) because the screen (5a) is separated from the interconnect outlet port (6a) by the ink passing member (7a).

In view of the foregoing, we will not sustain this rejection as it is directed to claim 8. We will also not sustain the rejection as it is directed to claims 9 to 13 as these claims are dependent on claim 8 and therefore require that the screen be brought into contact with the interconnect inlet opening 6a. We will not sustain this rejection as it is directed to claim 14 and claims 15 to 18 and 20 dependent thereon because claim 14, also requires that the screen be brought into contact with the interconnect inlet port.

Likewise, we will not sustain the rejection as it is directed to claim 21 and claims 22 to 26 dependent thereon, because claim 21 also requires that the screen be brought in contact with the interconnect inlet opening. We will also not sustain this rejection as it is directed to claim 27 and claims 28 to 31 dependent thereon, because claim 27 also requires that the screen be brought into contact with the interconnect inlet port. We will also not sustain the rejection as it is directed to claims 32 to 36 and 38 dependent thereon, as these claims likewise require that the screen be brought into contact with the interconnect inlet port 6a.

We turn next to the examiner's rejection of claims 6, 19 and 37 under 35 U.S.C. § 103 as being unpatentable over Soga in view of Ma and Dietl. The examiner, recognizing that Soga and Ma does not describe that the screen is fabricated of polyester mesh, relies on Dietl for this teaching and concludes:

. . . it would have been obvious to one having ordinary skill in the art at the time the invention was made to select any suitable material including polyester mesh as taught by Dietl et al as the material for the screen of Soga et al for the purpose of providing a filter that can prevent debris or air bubbles from entering the ink pipe connector and thus to the printhead. [answer at pages 5 to 6].

The appellant does not argue this rejection specifically but rather argues that Deitl does not supply the teachings missing discussed in regard to the rejection of claims 1 and 8 under 35 U.S.C. § 103 as being unpatentable over Soga in view of Ma (brief at page 12).

Claims 19 and 37 are dependent on claims 14 and 32 respectively. We have examined the disclosure of Deitl and have determined that Deitl does not supply the teaching regarding bringing the screen into contact with the interconnect inlet port found missing in the disclosures of Soga and Ma. Therefore, we will not sustain the rejection of claims 19 and 37.

In conclusion, we will sustain the examiner's rejection of claims 1 to 3 and 5 to 7. We will not sustain the examiner's rejection of claims 8 to 38.

AFFIRMED-IN-PART

Jerry Smith
JERRY SMITH

JERRY SMITH
Administrative Patent Judge

MURRIEL E. CRAWFORD
Administrative Patent Judge

MURRIEL E. CRAWFORD
Administrative Patent Judge

Stuart S. Levy
STUART S. LEVY

STUART S. LEVY
Administrative Patent Judge

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P. O. Box 272400
Fort Collins, CO 80527-2400

MEC/jrg